

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

08-MJ-4140(P)L

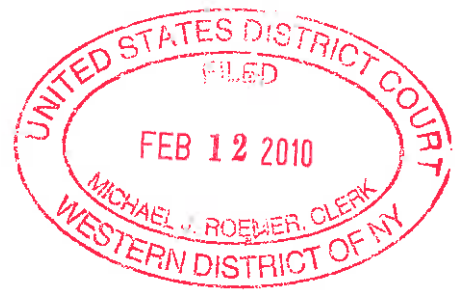
**ORDER**

v.

STEPHEN L. WEINBERG,

Defendant.

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On December 16, 2008, Magistrate Judge Marian W. Payson issued an Order, pursuant to 18 U.S.C. §4241(a), directing that the defendant, STEPHEN L. WEINBERG, be committed to the United States Bureau of Prisons for the purpose of determining his competence to stand trial for the charges alleged in 08-MJ-4140(P)L. On March 4, 2009, a Forensic Report was completed by the medical staff at the Metropolitan Correctional Facility in New York, New York, which concluded that this defendant is not presently able to assist in his own defense, due to his suffering from a mental disease or defect.

A competency hearing was convened before Magistrate Judge Payson on December 11, 2009. In a Report and Recommendation, dated January 6, 2010, Magistrate Judge Payson concluded that by a preponderance of the evidence presented at the hearing, the defendant, STEPHEN L. WEINBERG, is suffering from a mental disease, that is paranoid schizophrenia, which renders him unable to rationally understand the nature and consequences of the proceedings against him and to assist in his own defense. It is consequently the recommendation of the Magistrate Judge that this Court declare the defendant, STEPHEN L. WEINBERG, incompetent to stand trial. It was further recommended that the defendant be remanded to the custody of the Attorney General or his authorized representative pursuant to Title 18, United States Code, Section 4246 to determine "whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward".

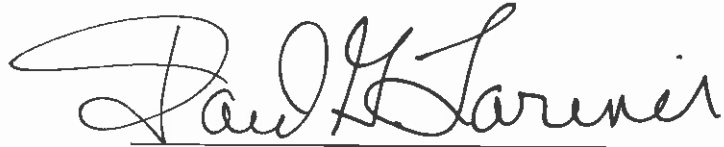
After reviewing all the matters submitted, I accept and adopt the Report and Recommendation of United States Magistrate Judge Marian W. Payson. I find no reason to alter or modify any of the factual findings and conclusions contained in her Report and Recommendation.

Therefore, the matter having come on to be heard before the Court on February 11, 2010, upon the Report and Recommendation, dated January 6, 2010, which I accept and adopt, and defendant, his counsel, and counsel for the Government appearing, the Court finds that the defendant is presently suffering from a mental disease or defect, paranoid schizophrenia, that renders him unable to rationally understand the nature and consequences of the proceedings against him and to assist properly in his defense; that the defendant, STEPHEN L. WEINBERG, is incompetent to stand trial; and that he be committed to the custody of the Attorney General for a reasonable period not to exceed four months, to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to stand trial in this case, pursuant to Title 18, United States Code, Section 4241(d)(1); and it is hereby

ORDERED, that the defendant, STEPHEN L. WEINBERG, be hospitalized for treatment at a suitable federal medical facility, pursuant to Title 18, United States Code, Section 4241(d)(1) for a reasonable period of time, not to exceed four months, to determine whether there is substantial probability that in the foreseeable future the defendant will attain the capacity to stand trial, and it is further

ORDERED, that at the conclusion of the hospitalization, the defendant shall be returned to the custody of the United States Marshal, Rochester, New York.

SO ORDERED.

A handwritten signature in cursive script, reading "David G. Larimer". The signature is written in dark ink and is positioned above a horizontal line.

DAVID G. LARIMER  
UNITED STATES DISTRICT JUDGE

DATED: Rochester, New York  
February 12, 2010